

EXHIBIT B
CITY OF JOHN DAY
ORDINANCE NO. 20-187-08
AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE TO STRENGTHEN
AND CLARIFY ENFORCEMENT PROVISIONS WITHIN THE CODE

Added language in double underline

Deleted language in ~~strikethrough~~

5-1.2.100 Enforcement

~~A. **Misdemeanor.** Any person violating or causing the violation of any of the provisions of this Code has committed a misdemeanor, and upon conviction thereof is punishable as prescribed in Section 1-4-1 of the City Code of John Day. Such person is guilty of a separate violation for each and every day during any portion of which any violation of this Code is committed or continued by such person.~~

~~B. **Abatement of Violation Required.** A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any other remedies available to the City.~~

~~C. **Responsible Party.** If a provision of this Code is violated by a business or other entity, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.~~

A. Compliance with the Development Code.

1. No structure (or part of a structure) may be used, erected, moved, or altered, no land may be used, altered, or divided, and no other action shall be undertaken unless such action conforms with the regulations and requirements of this Development Code.

2. Violations of conditions of approval set forth in permits and approvals issued pursuant to this Development Code are violations of this Development Code.

3. No permits or approval for the use, construction, or alteration of any land or structures may be issued unless applicable applications with all required plans, specifications, and other supporting materials are submitted and approved by the City in accordance with the provisions of this Development Code.

B. Violation of this Development Code as a Nuisance. Violation of this Development Code are hereby deemed a public nuisance and may be enjoined, abated, or removed pursuant to the procedures set forth in Title 8, Chapter 2 of the City Code of John Day.

C. Code Enforcement and Land Use.

1. If a property is in violation of this Development Code or any other City ordinance, the City shall not approve any permit or other land use approval including, without limitation, building permits, land divisions, and property line adjustments.

2. As part of the application process, the applicant must certify:

a. That to the best of the applicant’s knowledge, the subject property, including any prior development phases of the property, is currently in compliance with both the Development Code and any applicable prior land use approvals for the property; or

b. That the application is for the purpose of bringing the property into compliance with the Development Code and/or prior land use approvals.

3. For purposes of this section, a violation means the property has been determined to not be in compliance with the Development Code or other applicable law either through a decision by the City or other tribunal, through the review process of the current application, or through an acknowledgement by the alleged violator.

4. Notwithstanding anything herein to the contrary, the City may issue a permit or other approval if:

a. Approval, and compliance with such approval, would result in the property coming into full compliance with all applicable provisions of federal, state, or local laws including, without limitation, the Development Code;

b. It is necessary to protect the public health or safety;

(1) For the purposes of this section, “public health and safety” means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger life, health, personal property, or safety of the residents of the property or the public.

(2) Examples of that situation include, but are not limited to, issuance of permits to replace faulty electrical wiring; repair or install heat sources; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failure.

c. It is for work related to and within a valid utility or right-of-way easement over, on, or under the affected property; or

d. It is for emergency repairs to make a structure habitable or a right-of-way passable.

e. The property owner has entered into a compliance agreement acceptable to the Planning Official.

D. Revocation.

1. The Planning Commission may revoke any permit or approval granted pursuant to the provisions of this Development Code if it is determined that the permit or approval was issued on account of false statements contained in the application form or false representations made at a public hearing.

2. The Planning Commission may revoke any permit or approval granted pursuant to the provisions of this Development Code for failure to comply with those conditions and limitations placed upon the exercise of the permit or approval.

3. Prior to revocation, a written stop work order shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume, or shall state that a revocation hearing shall be held by the Planning Commission pursuant to the procedures for a Type III action.

E. **Penalties of Violation.** Violation of this Development Code is an infraction and is punishable by a fine of not less than \$100.00 and not more than \$500.00. The second and subsequent violation of the same provision of this Development Code in any one-year period is punishable by a fine of not less than \$250.00. In addition to any other rights or remedies provided under this Development Code, City may file a civil action to recover unpaid fees, fines, and costs, including, without limitation, City's reasonable attorney fees and other fees, costs, and expenses incurred by City to enforce this Development Code. Each violation of a provision of this Development Code will constitute a separate offense and each day that a violation of this Development Code is committed or permitted to continue will constitute a separate offense.

F. **Administration; Remedies.** The City Planning Official and any public safety officer may enforce the provisions of this Development Code. In pursuing enforcement, the City Planning Official may pursue any remedy provided by this Development Code or otherwise available at law or equity including, without limitation, injunctive relief without prejudice to any other remedy available to City. The City Planning Official may enter into voluntary compliance agreements with the violator. The remedies available to City are not exclusive and it is within the discretion of City to seek cumulative remedies for a violation of the Development Code.

I. **Vicarious Liability.** The owner of real property is vicariously liable, jointly and severally, for any violations of this Development Code related to the owner's real property committed by the owner's employees, agents, contractors, tenants, invitees, and any other occupant of the owner's real property.

SECTION 2: AMENDMENT "5-6.1.030 Definitions" of the City of John Day Development Code is hereby *amended* as follows:

5-6.1.030 Definitions

The following definitions are organized alphabetically and some related terms are also grouped together and cross-referenced under group headings (*e.g.*, Transportation-Related, Environment-Related, etc.).

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Planning Official. The person appointed by the City Manager to administer the City's Development Code and perform land use planning functions. The Planning Official may be a City employee or a contractor. This term includes any qualified designee of the Planning Official.